

SENATE BILL 2185

By Walley

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 14; Title 29; Title 33; Title 34; Title 56; Title
63; Title 68 and Title 71, relative to health care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding
the following as a new part:

68-11-2201. Short title.

This part is known and may be cited as the "Patient Right to an Advocate Act."

68-11-2202. Part definitions.

As used in this part:

(1) "Advocate" means:

(A) If the patient is capable of making decisions with regard to the
patient's health care, a family member, friend, or other individual
requested by the patient to assist the patient in making healthcare
decisions during the patient's time in a healthcare institution; or

(B) If the patient is incapacitated, the individual with power of
attorney over the patient's healthcare decisions;

(2) "Family member" means a child, parent, spouse, sibling, aunt, uncle,
cousin, stepparent, stepchild, grandparent, grandchild, or an individual legally
recognized to be in a familial relationship with the patient;

(3) "Healthcare institution" means a hospital, assisted-care living facility,
home for the aged, nursing home, rehabilitation center, skilled nursing facility, or
other facility licensed under this chapter;

(4) "Incapacitated" means a patient who is in a physical or mental condition such that the patient is incapable of granting or denying informed consent; and

(5) "Patient" means an individual under the care of a healthcare institution.

68-11-2203. Advocate access to patient in healthcare institutions.

(a)

(1) Notwithstanding a law to the contrary, a healthcare institution shall not restrict a patient from having at least one (1) advocate, selected solely by the patient, present with the patient at all times during the patient's stay in the healthcare institution to assist the patient in making healthcare decisions.

(2) In order to have access pursuant to this subsection (a), the advocate must not be exhibiting symptoms of a virus or communicable disease. The advocate shall comply with the healthcare institution's protocols for visitors, except those requiring proof of vaccination, as defined in § 14-1-101.

(3) For purposes of the advisory role of the advocate under this subsection (a), the healthcare institution:

(A) Shall immediately provide the patient's full medical record in possession of the institution to the advocate following written request by the advocate:

(i) If the patient is able to make medical decisions and agrees in writing to the disclosure; or

(ii) If the patient is incapacitated;

(B) Shall immediately provide updates to the advocate of a change in the condition of the patient:

(i) If the patient is able to make medical decisions and agrees in writing to the update; or

(ii) If the patient is incapacitated; and

(C) If the patient is in the institution for more than one (1) day, shall update the advocate as to the patient's condition at least once every twenty-four (24) hours:

(i) If the patient is able to make healthcare decisions and agrees in writing to the update; or

(ii) If the patient is incapacitated.

(b) If a healthcare institution complies with subsection (a), then the healthcare institution is not subject to:

(1) A cause of action by the patient, the advocate, or the patient's estate for that compliance; or

(2) An adverse action by the entity responsible for licensing the institution for that compliance.

(c) If a healthcare institution refuses to comply with subsection (a), then:

(1) The patient, the advocate, or the patient's estate has a cause of action against the institution; and

(2) The institution is deemed a facility detrimental to the health, safety, and welfare of the patient and the entity responsible for licensing the institution must suspend the admission of new patients or residents pursuant to § 68-11-252.

SECTION 2. Tennessee Code Annotated, Section 14-1-104, is amended by deleting subsection (b) and substituting:

(1) Except as provided in subdivision (b)(2), this title is in addition and supplemental to all other provisions of state law; wherever the application of this title conflicts with the application of other provisions of state law, this title prevails.

(2) Subdivision (b)(1) does not apply to § 68-11-2203(a).

SECTION 3. If a provision of this act or its application to a person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.